THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4480 OF 2006

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Dated: 07-03-2006

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Between

Potluri Ravindra Kumar,

S/o. Venkateshwara Rao,

R/o. D.No.59A-20-2/2,

Mary Stella Co-operative

Teachers Colony, Gurunanak

Colony Road, Vijayawada – 7.

...PETITIONER

AND

The Commissioner, Municipal Corporation

of Vijayawada, Vijayawada and another.

...RESPONDENTS

ORDER:

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This writ petition is filed seeking Writ of Mandamus to declare the action of the respondents in taking steps to demolish the house of the petitioner bearing Door No.59A-20-2/2, Mary Stella Co-operative Teachers Colony, Gurunanak Colony Road, Vijayawada without following due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner of the aforementioned premises and his late father purchased a plot bearing No.21 admeasuring 396.8 sq. yards vide registered document bearing No.1735/1991 dated 06.04.1991 from one Appireddy for valuable consideration. After the death of petitioner's father, petitioner succeeded as an absolute owner and possessor of the said property wherein in 1992 he constructed a residential house and since then he has been in peaceful possession and enjoyment of the same and paying taxes to the authorities regularly. While so, the respondent authorities visited the premises of the petitioner on 28.02.2006 and informed him that they are going to demolish the said premises up to the mark made without giving any notice. The learned counsel further submits that the respondents never issued any notice and without initiating any proceedings they are highhandedly interfering and middling with the petitioner's property.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law,
are attempting to dispossess them from the said premises for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private

negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

March 7, 2006

Note: Furnish C.C. of the order by 09.03.2006

(**B/o**)

DSK